

The opinion in support of the decision being entered today was not written for publication and is not binding precedent of the Board.

Paper No. 22

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte RAVI IYER

Appeal No. 2001-0336
Application No. 09/059,865

ON BRIEF

Before SMITH, FLEMING, and GROSS, ***Administrative Patent Judges.***
FLEMING, ***Administrative Patent Judge.***

DECISION ON REQUEST FOR REHEARING

Appellant has made two requests for rehearing, the first is Paper No. 19 and the second is Paper No. 21. We will answer both in this decision. In the first request, Appellant requests that we reconsider our decision mailed on September 25, 2002, with respect to affirming the Examiner's decision rejecting claims 18 through 23 under 35 U.S.C. § 103.

Appellant argues on pages 1 through 5 of the request that the Board held that the term "stringer" means undesirable residual non-dielectric material in accordance with the meaning found in the specification and in accordance with the manner in which the term is commonly understood by those of ordinary skill in the art of semiconductor fabrication. Appellant points to page 13, line 29 to page 14, line 2 of the specification which describes stringers as being undesirable because they cause problems, such as gate leakage for example. Appellant directs the Board to page 22 of Plasma Processing Material; Scientific Opportunities and Technological Challenges, Exhibit 1, which describes "stringer" residue as being undesirable residual non-dielectric material.

Upon our careful review of the specification and extrinsic evidence now made of record, we agree with the Appellant that the proper meaning of the claimed term "stringer" is an undesirable residual non-dielectric material. We note that claim 12 requires the limitation "removing a portion of the layer of non-dielectric material, leaving stringers of the non-dielectric material in the creases." We find that the scope of this limitation is removing a portion of the layer of non-dielectric material, leaving an undesirable residual non-dielectric material in the creases.

Claims 13 through 17 also recite this limitation due to their dependence on claim 12.

As we have found on page 14 of our opinion, claim 18 includes the limitation of "removing a portion of the non-dielectric material from the creases using a given method, the given method leaving undesirable residual non-dielectric material in some of the creases. Claims 19 through 23 also recite this limitation due to their dependence on claim 18.

Appellant argues that Kim's silicon spacer is not an undesirable residual non-dielectric material as required by Appellant's claims. Appellant points out that in Kim's first embodiment of Figure 1, the silicon spacer 18 is actually present in the final device and used to fill part of the contact hole. Appellant points out that even in Kim's second embodiment of Figure 2, if it were not for the silicon spacer 18, the thermal oxide spacer 19 could not be formed. Appellant argues in both embodiments, the silicon spacer 18 is purposely created, useful, desirable, and necessary for successful implementation of the Kim device. See page 7 of the request.

We agree that Kim's spacer 18 cannot read on Appellant's claimed undesirable residual non-dielectric material. Therefore,

Appeal No. 2001-0336
Application No. 09/059,865

we reverse the rejection of claims 12 through 23 under 35 U.S.C. § 103.

Appellant filed a second request for rehearing which presents a Terminal Disclaimer, not before us at the time of our decision. The second rehearing requests that we reconsider our decision of the rejection under obviousness-type double patenting in light of this Terminal Disclaimer. We will not reconsider our decision because the Board will only consider a single request for rehearing and the Board will only consider matters that the Board misapprehended or overlooked in rendering our decision as per 37 CFR § 1.197(b). The newly presented Terminal Disclaimer was not before us when we rendered our decision and it would be improper for us to consider it now.

Appellant's first request for rehearing is granted and the second request is denied.

Appeal No. 2001-0336
Application No. 09/059,865

No time period for taking any subsequent action in
connection with this appeal may be extended under 37 CFR
§ 1.136(a).

GRANTED-IN-PART and DENIED-IN-PART

JERRY SMITH)	
Administrative Patent Judge)	
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)	
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)	BOARD OF PATENT
MICHAEL R. FLEMING)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
)	
)	
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ANITA PELLMAN GROSS)	
Administrative Patent Judge)	

Appeal No. 2001-0336
Application No. 09/059,865

MRF/lbg

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